

## **On-Site Sewage Disposal Systems**

**Ordinance No. 2011-7**

### **Spencer County, Indiana**

An Ordinance pertaining to and regulating the design, construction, installation, maintenance and operation of on-site sewage disposal systems located within Spencer County, Indiana, providing for the issuance of permits therefore, installer certification, and providing penalties for the violation thereof.

Be it ordained by the Board of Commissioners of Spencer County that this Ordinance is adopted as follows:

**TITLE:** This Ordinance and all ordinances supplemental or amendatory hereto shall be known as the On-site Sewage Disposal Ordinance of Spencer County, and may be cited as such and will be referred to herein as "this Ordinance."

**PURPOSE:** The purpose of this ordinance is to provide minimum standards for the prevention and suppression of disease and health risks associated with the use of on-site sewage disposal systems and to otherwise promote public safety and welfare and protection of the environment.

**AUTHORITY:** The Health Officer of Spencer County, as hereinafter defined, and the Health Officer's agents and representatives are hereby authorized to issue permits, installer certifications, collect permit and incidental fees, perform inspections, order or otherwise compel correction of violations of this ordinance, and are otherwise authorized to perform all actions necessary for the administration and enforcement of this ordinance.

#### **ADOPTION OF REGULATIONS BY REFERENCE:**

(1) The rules and regulations of the Indiana State Department of Health (hereafter ISDH), which may be adopted from time to time governing and regulating Residential Sewage Disposal Systems, (currently found in Title 410 IAC 6-8.2), are hereby incorporated by reference in this Ordinance. Copies of the current ISDH rules and regulations are available and on file in the Office of the Spencer County Health Department and the Spencer County Auditor.

(2) The rules and regulations of the Indiana State Department of Health, which may be adopted from time to time governing and regulating Commercial On-Site Wastewater Disposal, (currently found in Title 410 IAC 6-10), are hereby incorporated by reference in this Ordinance. Copies of the current ISDH rules and regulations are available and on file in the Office of the Spencer County Health Department and the Spencer County Auditor.

(3) The rules and regulations of the Indiana State Department of Health, which may be adopted from time to time governing the Sanitary Privy, (currently found in Bulletin No. S.E. 11), are hereby incorporated by reference in this Ordinance. Copies of the current ISDH rules and regulations are available and on file in the Office of the Spencer County Health Department and the Spencer County Auditor.

## **DEFINITIONS**

**Board of Health**-means the Spencer County Board of Health having jurisdiction in Spencer County, Indiana.

**Commercial**-means any type of building other than a one or two family dwelling

**Construction Permit** – means written approval by the local health department for the installation of an onsite sewage system.

**Current ISDH Rules/Regulations** – those officially adopted & published rules & regulations in effect at the time of the installation, repair or replacement of any system.

**Environmental Health Regulator** – person employed by Board of Health to advise on and enforce public health standards.

**Hearing**-means a session in which witnesses are heard and testimony is taken

**Health Officer**-means the Health Officer having jurisdiction in Spencer County Indiana

**Indiana State Department of Health (ISDH)**–means the state agency having authority to regulate onsite sewage systems.

**Notice of Violation**-means a written notification of an ordinance violation

**Order**-mean a written mandate a person is directed to obey

**Repair Installation**-means the repair or replacement of any onsite sewage system component other than the replacement or expansion of a soil absorption field.

**Soil Profile Analysis Report**-means a written description and interpretation of the physical and chemical properties of a soil from sample sites. The written soil profile report must include a detailed soil profile description of the properties of the soil at each sample site. All sample sites must be evaluated and described in the soil profile report.

**Staked**-means a lathe stake or equivalent at each end of all proposed trenches or the four corners of the basal area and aggregate bed for a sand mound system.

**Violation**-means a breach of law, ordinance or rule.

## **SECTION A: PUBLIC SEWER AVAILABILITY**

**(1)** As required by Indiana Administrative Code (13-26-5-2), whenever a public sewer is or becomes available within 300 feet of a residential or commercial building, a direct connection shall be made to said public sewer, provided direct access is reasonably available via easement or other appropriate means. All existing septic tanks, sewage pits, outhouses, privy pits and similar sewage disposal systems or treatment facilities shall be abandoned and filled in a safe and sanitary manner. Permittee shall have ninety (90) days from the date that the public sewer becomes available to make a direct connection to the public sewer. Once connected, permittee shall have one hundred eighty (180) days from the date of connection to abandon and fill in the existing septic tank as required by ISDH Rules/Regulations.

**(2)** All residential and commercial buildings which are not connected to a public sewer shall be connected to a private sewage disposal system which shall comply with the standards set forth herein.

## **SECTION B: SYSTEM REQUIREMENTS**

All residential onsite sewage systems shall be designed and installed in accordance with current ISDH Rules/Regulations or as stated below:

**(1)** No person shall throw, run, drain, seep, or otherwise dispose into any of the surface waters or ground waters of Spencer County, or cause, permit, or suffer to be thrown, run drained, allowed to seep or otherwise disposed into such waters, any organic or inorganic matter from an on-site sewage disposal system that would cause or contribute to a health hazard or water pollution.

**(2)** Connection to an existing soil absorption system may be allowed if all of the following conditions are met:

**(a)** the connection will not exceed the system design load based on the sizing requirements of current ISDH Rules/Regulations;

**(b)** the existing system has not failed;

**(c)** the existing system has been permitted and approved by the Health Officer, and the applicant has possession of a record of the permitted and approved system which shows all system dimensions;

**(d)** there is sufficient space for system replacement, in the event that the existing system shall fail;

**(e)** in the event that a system enlargement is proposed, the enlargement must bring existing system into compliance with the minimum standards of current ISDH Rules/Regulations

**(3)** No privy shall be permitted for a residence except on a temporary basis and then only by special permit. All such privies shall comply with current ISDH regulations, Bulletin S.E.11. Those ISDH regulations are hereby incorporated by reference as part of this section and copies are filed in the office of the Spencer County Health Department and the Spencer County Auditor for public inspection.

**(4)** Should an on-site sewage disposal system fail, the property owner shall be responsible for the repair and the failure shall be corrected by a certified installer, within the time limit set by the Health Officer.



(5) The minimum size of a new septic tank used in all installations shall be a minimum of one thousand (1000) gallons.

(6) An outlet filter meeting ISDH Rules/Regulations shall be required for all installations.

(7) All designs for commercial onsite sewage systems must have approval from the Indiana State Department of Health, prior to installation. All designs and installations must be done in accordance with the current ISDH Rules/Regulations regarding "Commercial Onsite Wastewater Disposal" and amendments unless specific written exemption is obtained from the Indiana State Department of Health.

#### **SECTION C: INSTALLER CERTIFICATION**

(1) No person shall construct, install, replace, or repair any part of any on-site sewage disposal system in Spencer County until the person is certified by the Spencer county Health Department as a certified installer for the type of system to be installed.

(2) In order to become certified, an individual must do all of the following:

(a) file an Application for Certification accompanied by an annual fee;

(b) present a certificate of liability insurance issued by a company registered in Indiana showing coverage for the entire term of the certificate. The liability policy shall be sufficient to indemnify persons for whom faulty work may be performed or a minimum of \$100,000;

(c) demonstrate knowledge of the applicable laws, rules, and regulations before becoming certified by passing a proficiency examination conducted by the Spencer County Health Department.

(3) Certificates issued hereunder shall be valid for a term of one year beginning January 1, and expiring December 31, of the same year and shall be renewed annually. The Certification shall bear the name of the certified installer, the expiration date and signature of Environmental Health Regulator and shall not be transferable. Any Certification that is not renewed within one year of the expiration date shall be considered void and the installer must re-apply for Certification and pass the proficiency test.

(4) The installer shall maintain in his possession a copy of the certification at all times when installing on-site soil absorption systems.

(5) A Certified Installer shall be on the site at all times during construction, and shall be deemed responsible for the installation. A Certified Installer may supervise other construction workers as necessary to assist in the installation.

(6) A property owner wishing to install, repair, or otherwise work on the on-site sewage disposal system serving his own dwelling shall be required to demonstrate knowledge of the applicable laws, rules, and regulations by taking the proficiency exam conducted by the Health Department.

## **SECTION D: PERMITS**

No construction permit will be issued if it is determined the issuance of such a permit would violate or otherwise be inconsistent with the provisions of current ISDH Rules/Regulations and Federal or State statute or regulation and any ordinance of Spencer County, or would otherwise be reasonably expected to cause or contribute to an unsanitary condition, an unacceptable probability of groundwater contamination or construction of an on-site sewage disposal system with an unacceptable risk of failure.

### **Construction Permits**

(1) A construction permit for the installation of an on-site sewage disposal system, whether issued prior to or after the adoption of this Ordinance, shall lapse and be void if work has not been completed within one year after its issuance. When a permit has expired or has been revoked, the work on the on-site sewage disposal system shall not commence or resume unless a new application and fee have been submitted and a new permit has been obtained.

(2) The construction permit shall be available to regulatory authorities at or near the dwelling or facility where the on-site sewage disposal system is under construction.

(3) No part of an on-site sewage disposal system for a residence shall be located closer than 25 feet to a surface water drain tile, running stream or surface water drain. The rules and regulations of the drainage board will apply for any legal ditch or drain. All parts of the system must be kept at least 50 feet from any water well.

(4) Because of the hazards regarding potential ground water contamination of wells, the Health Department may, at the Health Officer's discretion, decline to issue a construction permit for the on-site sewage disposal system if said system may cause or contribute to a health hazard or an unsanitary conditions unless a public water supply is provided.

(5) Those factors which may be considered by the Health Officer in making a determination to issue or decline to issue a permit unless a public water supply is provided include but are not limited to the availability to public water supply, the requirements of current ISDH Rules/Regulations, soil and geological conditions, the depth of the water table and the quantity of water available, evidence of any contaminants existing in the water supply, and the number of existing or anticipated on-site sewage disposal systems located within the general area in which the proposed on-site sewage disposal system is to be built.

(6) Prior to receiving the following construction permits, the applicant shall provide the following:

#### **(a) Residential Onsite Sewage System Construction Permit (new construction)**

- (i) a signed application for an onsite sewage system permit
- (ii) a soil profile analysis report prepared by a Soil Scientist
- (iii) a floor plan of proposed dwelling
- (iv) the application fee
- (v) copy of property deed
- (vi) complete set of plans prepared by certified installer

(vii) any additional information deemed necessary by the Health Regulator or Health Officer

**(b) Residential Onsite Sewage System Construction Permit (repair/replacement)**

(i) a signed application for an onsite sewage system permit

(ii) a soil profile analysis report prepared by a Soil Scientist

(iii) the application fee

(iv) copy of property deed

(v) complete set of plans prepared by a certified installer

(vi) any additional information deemed necessary by the Health Regulator or Health Officer

**(c) Commercial Onsite Sewage System Construction Permit**

(i) a signed application for an onsite sewage system permit

(ii) a soil profile analysis report prepared by a Soil Scientist

(iii) the application fee

(iv) an approval letter and approved on-site system plans from the Indiana State Department of Health

(v) any additional information deemed necessary by the Health Regulator or Health Officer

**SECTION E: FEES**

(1) A fee for a Sewage Disposal Construction Permit shall be submitted prior to issuance of the Permit.

(2) A fee for Installer Certification shall be submitted prior to the issuance or renewal of the Certification.

(3) A property owner as described in Section C, paragraph 6, shall be exempt from the Installer Certification fee.

(4) A fee for reinspections shall be submitted prior to a reinspection by the Health Department.



## **SECTION F: INSPECTIONS**

(1) The Health Officer, Environmental Health Regulator or their agent(s) shall be permitted to enter upon all properties for purposes of inspection, observation, measurement, sampling and testing necessary to insure compliance with the Ordinance and to verify no sewage disposal system has failed.

(2) At the start of installation, as well as, upon substantial completion of the installation, the permittee shall notify the Environmental Health Regulator that the work is ready for inspection. No portion of the installation shall be covered until the inspection is made unless approved by Regulator.

(a) No portion of the installation shall be used until deemed compliant by the Environmental Health Regulator.

(b) In order to complete an inspections the Health Department, at their discretion, may require any or all of the system uncovered or the septic tank pumped by a licensed septic hauler.

## **SECTION G: PETITION FOR REVIEW**

(1) The Spencer County Health Board shall hear appeals incidental to the issuance and revocation of permits if, within fifteen (15) days following the date of receipt of an issued permit, permit modification, notice of permit denial or notice of permit revocation, an person aggrieved by such action files a petition for review concerning such action with the Board. Such a petition for review must be in writing, shall set forth the reasons or the objections to the action and shall be signed and verified by the aggrieved person.

(2) The procedures established in IC 4-21.5, the Administrative Procedure and Orders Act, shall apply to the conduct of the hearing.

## **SECTION H: ENFORCEMENT**

(1) Any persons found to be in violation of any provision of this Ordinance or the applicable rules and regulations of the Indiana State Department of Health shall be served with a written order in person or by certified or registered mail by the County Health Officer. This order shall state the nature of the violation, and provide a reasonable time limit, unless the health officer deems an emergency exists, not to exceed thirty (30) days, for the correction of any violation of this ordinance.

(2) Any installer, as defined in this ordinance, found to be in violation of any provision of this ordinance or the applicable rules of the Indiana State Department of Health shall receive notice. The installer shall have up to fifteen (15) days to correct the violation if possible or as otherwise determined by the health officer.

(a) If the violation is not corrected within the designated time, or cannot be corrected, the Health Officer may suspend or revoke the certification and/or fine the installer. If the certification is suspended, the certification can be reinstated by the Health Officer at his/her discretion. If the certification is revoked, the requirements for becoming certified including testing and payment of the certification fee shall apply prior to recertification. Recertification shall not occur until all outstanding violations are corrected to the satisfaction of the Health Officer.

(b) Any installer who is in violation of this ordinance can be fined for the first offense not more than \$500.00; for the second and each subsequent offense not more than \$1000.00. Each violation of this ordinance shall constitute a separate violation.

(3) Any person constructing, installing, replacing, or repairing any on-site sewage disposal system that is not certified in Spencer County shall be deemed to be in violation of the Ordinance. A person who is in violation of this ordinance shall be fined for the first offense not more than \$500.00; for the second and each subsequent offense not more than \$1000.00. Each violation of this Ordinance shall constitute a separate violation.

(4) Any person who shall continue any violation of this Ordinance beyond the time limit provided for correction of any violations of this Ordinance or who performs any act prohibited herein or shall fail to perform any duty lawfully enjoined or who shall fail, neglect, or refuse to obey any lawful order given by the Health Officer shall be punished for the first offense by a fine of \$100.00. Each day a violation of this Ordinance continues shall constitute a separate offense for which a separate fine may be levied. Upon correction of the violation the Spencer County Health Department must be notified so the fine does not continue to accrue.

#### **SECTION I: REMEDIES**

The Health Officer may, in the name of the Commissioners of Spencer County, bring actions in the Spencer Circuit Court or Superior Court of Spencer County for mandatory and injunctive relief for the enforcement of and to secure compliance with any order or orders made by the Health Officer or to otherwise provide for the enforcement of this Ordinance. Any such action for mandatory or injunctive relief may be joined with an action to recover the penalties, costs and expenses provided in this Ordinance. In the event any legal action is necessary to enforce this Ordinance, the Health Officer may seek recovery of costs and expenses reasonably incurred to enforce the provisions of this Ordinance including, but not limited to, reasonable attorney's fees.

#### **SECTION J: SEVERABILITY**

Should any section, paragraph, sentence, clause, or phrase of the Ordinance be declared unconstitutional or invalid for any reason, the remainder of said Ordinance shall not be affected thereby and shall remain in full force and effect.

#### **SECTION K: REPEAL and DATE of EFFECT**

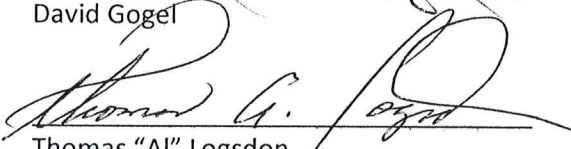
All ordinances and parts of ordinances in conflict with this Ordinance are repealed, and this ordinance shall be in full force and effect immediately upon its adoption and its publication as provided by law.

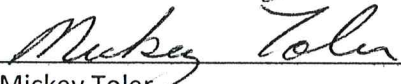


Passed and adopted by the Commissioners of Spencer County, State of Indiana on the 20  
day of September, 2011.

BOARD OF COMMISSIONERS:

  
\_\_\_\_\_  
David Gogel

  
\_\_\_\_\_  
Thomas "Al" Logsdon

  
\_\_\_\_\_  
Mickey Toler

ATTEST:

  
\_\_\_\_\_  
Donna Lynam, Auditor  
J.